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Docket No.: TGZ-001ACP2
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
John R. Gilbert *et al.*

Application No.: 10/607287

Confirmation No.: 4965

Filed: June 25, 2003

Art Unit: 1743

For: MICROFLUIDIC SYSTEM INCLUDING A
VIRTUAL WALL FLUID INTERFACE PORT
FOR INTERFACING FLUIDS WITH THE
MICROFLUIDIC SYSTEM

Examiner: B. J. Sines

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the restriction requirement set forth in the Office Action mailed October 26, 2005 (Paper No. 10212005).

The Examiner has required restriction between the following inventions in the above-identified application:

Group I: Claims 1-11, drawn to a method of labeling a sample, classified in class 436, subclass 56.

Group II: Claims 12-20, drawn to an apparatus for performing labeling operations, classified in class 422, subclass 101.

Accordingly, Applicant(s) hereby elect(s) Group I, Claims 1-11 for continued examination, with traverse. As requested, Applicants enclose a listing of all pending claims in the application including status identifiers.

The Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (37 CFR 1.142(a)). In the present case, although the claimed subject matter may be classified in different classes, the inventions are not independent.

A single, searchable unifying feature, i.e., a labeling operation performed in a channel having a fluid interface port formed in a side wall, links all of the claims of at Groups I-II.

Applicants submit that a sufficient search and examination with respect to the subject matter of the claims of Groups I-II can be made without serious burden. As the M.P.E.P. states:

[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. M.P.E.P. § 803 (8th ed., Rel. 78A, August 2001).

That is, even if the groups of claims are drawn to distinct inventions, the Examiner must still examine the entire application on the merits because doing so will not result in a serious burden.

Applicants submit that the search and examination of all the claims will have substantial overlap, and no serious burden will result from searching and examining all claims in the same application.

In view of the identity of the claim elements, and the data bases and powerful computer search engines available to the Examiner, there would be no serious burden in examining all the claims in a single application.

Moreover, the patent statutes require that Applicants disclose how to make and use the system and method of the invention. It is only reasonable, then, that Applicants be allowed to prosecute the system and the method for making and using the system in a single application. For example, the elected claims are directed to a method of labeling a sample, while the non-

elected claims relate to a system for so doing. Therefore, it is improper to require that the subject matter of these groups be prosecuted in separate patent applications.

Accordingly, it is respectfully requested that the restriction requirement be withdrawn, and that all of the claims presently pending in this application be examined.

Nevertheless, in compliance with the directives in the Office Action and in order to expedite prosecution of the instant application, Applicants hereby elect, subject to the foregoing traverse, Group I (claims 1-10). For the Examiner's convenience an Appendix (Appendix A) of the pending claims is attached herewith.

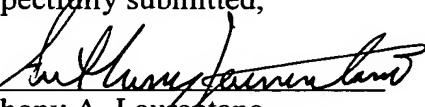
Applicants reserve the right to pursue the non-elected claims, or similar claims, in this or one or more subsequent patent applications.

If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call the undersigned attorney at (617) 227-7400.

Please charge the fee for the requested extension of time to our Deposit Account No. 12-0080, under Order No. TGZ-001ACP2, from which the undersigned is authorized to draw. If an additional fee is due, please charge our Deposit Account No. 12-0080, under Order No. TGZ-TGZ-001ACP2.

Dated: December 27, 2005

Respectfully submitted,

By 
Anthony A. Laurentano
Registration No. 38,220
LAHIVE & COCKFIELD, LLP
28 State Street
Boston, Massachusetts 02109
(617) 227-7400
(617) 742-4214 (Fax)
Attorney/Agent For Applicant